not prepared to say that there might not be a case of individual hardship, especially where no power of compensation existed, in which the Commissioners might not be restrained. I do not think that a street could be so altered as to do material or irreparable damage to an owner. If any such case arises, it will be dealt with according to the well established principles of equity. Here I see no grounds for interfering with the discretion of the Commissioners.

LORD DEAS—The question is, Whether the Police Commissioners had the power to do what they did? It was thought expedient that the statute should place large powers in the hands of the Commissioners for the purpose of improving the town. Section 334 empowers the Commissioners to require any building to be set back. Section 338 empowers them to allow any building to be set forward. I agree with your Lordship that the words "set back" and "set forward" unquestionably imply set back from the street and set forward upon the street. The Lord Ordinary seems to think that they cannot set back a building except on compensation, and that the setting forward cannot be done at all. If we read section 338, as I take it, the setting forward of a building necessarily implies the alienation of a part of the street to the owner whose property is set forward. The Lord Ordinary thinks that "a power to allow buildings to be set forward does not infer a power to alienate any part of the solum to the prejudice of those who have formerly enjoyed it." But surely it may be possible to "alienate a part of the solum of the street" without it being "to the prejudice of those who formerly enjoyed it." If the Commissioners are entitled to set back a building on a money compensation, can it be said that they are not entitled to set back a building in one part in consideration of allowing it to be set forward in another part? Does not that power expressly come under section 338? If the power is abused the Court would restrain it. I think we should very soon find out where it is to end. Because they may do a reasonable thing, it does not follow that they may do an unreasonable thing.

The question here is, Whether there was a fair and reasonable exercise of the power, or whether it was so injurious to one individual, although of benefit to the general public, that it cannot be allowed? For I admit that if the pursuers could show substantial injury to their property, it would not be a sufficient answer to say that it would be a public benefit. Is there any such substantial injury to the pursuers' property so as to entitle them to object? This is attempted to be made the subject of evidence. With a plan before us we are quite as competent to judge as to the injury as the pursuers' witnesses. I cannot hold that there is any such injury as to justify us in restraining the Commissioners in the exercise of their statutory powers.

LORD ARDMILLAN—I entirely concur with your Lordships. I remark, first, that if the Police Commissioners had the power to sanction the alteration, they certainly exercised that power. Then had they the power? This is a very fair question to try. I think they had. In the administration of the powers vested in them, it cannot be denied that in setting back a house they are really taking from an owner either the property or the beneficial enjoyment of a part of his property. On the other hand, if they permit a house to be set forward, they are necessarily occupying a portion of the street with the property put forward. This they are entitled to do on conditions. If these are extravagant or corrupt, they will be restrained. But if nothing but what is reasonable and fair appears, then they have the power. We are not to presume an abuse of power. If any of the things suggested were done, nay more, if the rights of one individual were so injuriously affected as to be beyond the limits of compensation competent to the Commissioners, it would be for this Court to interfere. In this instance I have no doubt that the Commissioners acted fairly and judiciously.

The Court recalled the interlocutor of the Lord Ordinary, and assoilzied the defender, with expenses.

Counsel for Pursuers — Watson and Asher. Agents—M'Ewen & Carment, W.S.

Counsel for Defender—Solicitor-General, Balfour, and Robertson. Agents—Tods, Murray, & Jamieson, W.S.

Saturday, November 9.

FIRST DIVISION.

CAROLINE MARY MACKIE, PETITIONER.

Minor—Curators—Allowance—Authority of Court.

Circumstances in which the Court exercised its authority over the curators of a minor to the effect of fixing the allowance to be paid for her maintenance.

Miss Caroline Mary Mackie and her curators *ad litem* presented a petition to the Court, praying them to ordain her trustees to fix her annual allowance for education, maintenance, &c. at £175 The trustees objected to have any specific sum fixed, but were ready to pay all reasonable expenses incurred by the young lady. The ground of their objection was the existing uncertainty as to the petitioner's ultimate fortune, which was still in doubt and subject to intricate questions of accounting, though it was certain not to be less than from £2000 to £3000, and might be as much as £8000. The Court held that a specific allowance ought to be given, and fixed the sum at £155.

Counsel for Petitioner—Asher. Agents—Jardine, Stodart, & Frasers, W.S.

Counsel for Respondents — Balfour. Agent—Charles S. Taylor, S.S.C.

Saturday, November 9.

SECOND DIVISION.

[Sheriff-Court of Ayr.

KILMARNOCK GAS COMPANY *v.* SMITH.

Lease—Rent—Retention—Sequestration—Relevancy.

A Gas Light Company granted a lease of certain premises adjoining their works, with right to the whole secondary products which should flow into the tenant's cistern. During the currency of the lease the tenant refused the rent for a certain half-year, and the Compaay raised a process of sequestration against him. The tenant's defence was, that